



***NASA DESK GUIDE***

***FOR***

***TABLE OF  
DISCIPLINARY OFFENSES AND  
PENALTIES***

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# GUIDANCE TABLE OF DISCIPLINARY OFFENSES AND PENALTIES FOR EMPLOYEES IN THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

## 1. PURPOSE

This Table is a guide to use when determining whether and/or to what extent formal disciplinary action is necessary in dealing with issues of employee misconduct.

## 2. DEFINITIONS

**Formal disciplinary actions** include written reprimands, suspensions, reductions in grade or pay, and removals. The term "**reprimand**" means a written reprimand, which is filed in the employee's Official Personnel Folder, for a period of up to two years. The terms "**suspension**," "**grade**," "**pay**," and "**removal**" have the meanings assigned in 5 U.S.C. 7501 and 7511.

**Informal discipline** (i.e., oral or written admonishment) is not made a matter of record in the employee's Official Personnel Folder. However, such discipline, along with other relevant information such as memorandums for the record, the supervisor's notes, and letters of instruction, may be considered when determining an appropriate penalty for a current offense.

As listed in the Table, "**days**" means calendar days.

## 3. GUIDANCE

a. **Identifying and describing offenses:** This Table is not intended to cover every possible type of offense or to provide a series of prescriptions to be matched. For example, if a particular offense listed in the Table is not appropriate as a description of the offense committed, do not try to "force fit" the description to a match with the Table but describe it in terms appropriate to the situation. [However, the description of the offense, once decided upon, should remain the same for all subsequent written references to the offense.] Some of the items listed in the Table combine several offenses, separated by semicolons or connected by the word "or" in one statement. When describing charges against a particular employee, use only the applicable part of a listed offense. Write charges to the standards of specificity required by the Merit Systems Protection Board. Supervisors should be advised to seek assistance from their Center's human resources staff to ensure adherence to these standards.

### b. **Determining penalties:**

(1) The ranges of penalties shown in the Table are those which are considered to be most typical for offenses of the nature indicated. The Table provides for more serious penalties for second and subsequent incidents of employee misconduct. This is in keeping with progressive discipline, with the focus being on rehabilitating employees by

taking the least serious corrective action necessary to ensure that further offenses are not committed. In considering the time frame for determining whether an offense is a second or subsequent offense, the usual "reckoning period" is within four years preceding the date of the current offense. Nevertheless, if previous offenses were serious in nature or represent a pattern of misconduct, a longer period of time may be considered. Note that a subsequent offense does not have to be a repeat of the first offense; e.g., if an employee is disciplined for being absent without leave (AWOL) and then faces charges of insubordination, the latter penalty can be considered as a second offense. The first action could include a statement such as "future incidents of this or other misconduct may result in more severe disciplinary action possibly including removal from the Federal Service."

(2) The penalty for a given offense may be less than the minimum penalty shown, or greater than the maximum penalty shown in the Table. This depends largely on whether, and to what extent, the "Douglas" factors come into play. In the case of *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), the following factors may influence the decision as to whether any formal disciplinary action should be imposed at all, or whether such action might be less severe (mitigating) or more severe (aggravating) than the typical range shown in the Table of Offenses and Penalties. There is no requirement to address all of these factors; consider only those which apply:

- The nature and seriousness of the offense and its relation to the employee's duties, position, or responsibilities, including whether the offense was intentional, technically inadvertent, committed maliciously or for gain, and how frequently it was repeated;
- The employee's job level and type of employment, including supervisory or fiduciary role; contacts with the public; and prominence of the position;
- The employee's past disciplinary record;
- The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
- The consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- The consistency of the penalty with any applicable agency table of penalties;
- The notoriety of the offense or its impact upon the reputation of the agency;

- The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question;
- The potential for the employee's rehabilitation;
- Mitigating circumstances surrounding the offense, such as unusual job tensions; personality problems; mental impairment; harassment; or bad faith, malice, or provocation on the part of others involved in the matter; and
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

c. **Penalties.** Penalties for offenses not listed should be determined by the supervisor in consultation with the Center's human resources staff. Generally, such penalties should be consistent with the range of penalties shown for comparable offenses listed in the Table, unless application of the Douglas factors supports a penalty outside that range or if a statutory penalty applies such as willful misuse of a Government vehicle. In addition, actions taken on the basis of off-duty misconduct must show a nexus between the offense(s) and the efficiency of the Government service. Consider, also, the need for reasonable accommodation and/or firm choice when there are health or related factors.

d. **Alternative dispute resolution.** There may be other actions taken in lieu of formal discipline which are the equivalent of formal discipline and are part of the disciplinary process. Examples include, but are not limited to, settlement agreements or letters that state they are in lieu of whatever formal discipline that would normally be imposed.